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11 Attorneys for Plaintiff

12 **UNITED STATES DISTRICT COURT**  
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 ROYAL PRINTEX, INC., a California  
15 Corporation,

16 Plaintiff,

17 v.

18 LEONARD A. FEINBERG, INC., a  
19 Pennsylvania Corporation; RAINBOW  
20 USA, INC., a New York Corporation;  
21 SKIVA INTERNATIONAL, INC., a  
22 New York Corporation and DOES 1  
23 through 10,

24 Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS AND/OR  
CONTRIBUTORY COPYRIGHT  
INFRINGEMENT

Jury Trial Demanded

25 Plaintiff ROYAL PRINTEX, INC., by and through its undersigned attorneys,  
26 hereby prays to this honorable Court for relief as follows:

**JURISDICTION AND VENUE**

1  
2 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101  
3 *et seq.*

4 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and  
5 1338 (a) and (b).

6 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and  
7 1400(a) in that this is the judicial district in which a substantial part of the acts and  
8 omissions giving rise to the claims occurred.

9 **PARTIES**

10 1. Plaintiff, ROYAL PRINTEX, INC (“ROYAL PRINTEX”) is a corporation  
11 organized and existing under the laws of the State of California with its principal  
12 place of business located in the Los Angeles County.

13 2. Plaintiff is informed and believes and thereon alleges that Defendant  
14 LEONARD A. FEINBERG, INC. (“FEINBERG”) is a corporation organized and  
15 existing under the laws of the state of Pennsylvania, and is doing business in and with  
16 the state of California.

17 3. Plaintiff is informed and believes and thereon alleges that Defendant  
18 RAINBOW USA, INC. (“RAINBOW”) is a corporation organized and existing under  
19 the laws of the state of New York, and is doing business in and with the state of  
20 California.

21 4. Plaintiff is informed and believes and thereon alleges that Defendant  
22 SKIVA INTERNATIONAL, INC. (“SKIVA”) is a corporation organized and  
23 existing under the laws of the state of New York, and is doing business in and with  
24 the state of California.

25 5. Defendants DOES 1 through 10, inclusive, are other parties not yet  
26 identified who have infringed Plaintiff’s copyrights, have contributed to the  
27 infringement of Plaintiff’s copyrights, or have engaged in one or more of the

1 wrongful practices alleged herein. The true names, whether corporate, individual or  
2 otherwise, of Defendants 1 through 10, inclusive, are presently unknown to Plaintiff,  
3 which therefore sues said Defendants by such fictitious names, and will seek leave to  
4 amend this Complaint to show their true names and capacities when same have been  
5 ascertained.

6 6. Plaintiff is informed and believes and thereon alleges that at all times  
7 relevant hereto each of the Defendants was the agent, affiliate, officer, director,  
8 manager, principal, alter-ego, and/or employee of the remaining Defendants and was  
9 at all times acting within the scope of such agency, affiliation, alter-ego relationship  
10 and/or employment; and actively participated in or subsequently ratified and  
11 adopted, or both, each and all of the acts or conduct alleged, with full knowledge of  
12 all the facts and circumstances, including, but not limited to, full knowledge of each  
13 and every violation of Plaintiff's rights and the damages to Plaintiff proximately  
14 caused thereby.

15 **CLAIM RELATED TO DESIGN R8419**

16 7. Prior to the conduct complained of herein, Plaintiff composed an original  
17 two-dimensional artwork for purposes of textile printing, which is set forth  
18 hereinbelow. It allocated this artwork Plaintiff's internal design number R8419  
19 (hereinafter the "Subject Design"). This artwork was a creation of Plaintiff and/or  
20 Plaintiff's design team, and is, and at all relevant times was, owned exclusively by  
21 Plaintiff.

22 8. Plaintiff applied for and received a United States Copyright Registration  
23 for the Subject Design.

24 9. Prior to the acts complained of herein, Plaintiff sampled and sold fabric  
25 bearing Subject Design to numerous parties in the fashion and apparel industries. A  
26 true and correct image of the Subject Design is presented below:  
27  
28

Subject Design:



10. Plaintiff is informed and believes and thereon alleges that, following this distribution of fabric bearing Subject Design, SKIVA, FEINBERG, and certain DOE Defendants created, sold, manufactured, caused to be manufactured, imported and distributed fabric and/or garments comprised of fabric bearing an unauthorized reproduction of Subject Design (“Subject Products”). Such Subject Products include but are not limited to SKIVA garments sold under, *inter alia*, SKU 0017605080, RAINBOW garments sold under, *inter alia*, SKU 0094-06163-9036 and 1094-06163-9037. Such Subject Products bore the “Chesley” label respectively, indicating said garments were manufactured by, caused to be manufactured by, or supplied by



FEINBERG or DOE Defendants. A comparison of the Subject Design (left) and the designs on the Subject Products (right) is set forth below:



11. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, have committed copyright infringement with actual or constructive knowledge of Plaintiff's rights and/or in blatant disregard for Plaintiff's rights, such that said acts of copyright infringement were, and continue to be, willful, intentional and malicious, subjecting Defendants, and each of them, to liability for statutory damages under Section 504(c)(2) of the Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per infringement.

12. A comparison of the Subject Design and each non-exclusive exemplar of Subject Products makes apparent that the elements, composition, colors, arrangement, layout, and appearance of the designs are substantially similar.

### **FIRST CLAIM FOR RELIEF**

(For Copyright Infringement – Against All Defendants, and Each)

1           13. Plaintiff is informed and believes and thereon alleges that Defendants, and  
2 each of them, had access to Subject Design, including, without limitation, through  
3 (a) access to Plaintiff's showroom and/or design library; (b) access to illegally  
4 distributed copies of the Subject Design by third-party vendors and/or DOE  
5 Defendants, including without limitation international and/or overseas converters  
6 and printing mills; (c) access to Plaintiff's strike-offs and samples, and (d) garments  
7 manufactured and sold to the public bearing fabric lawfully printed with the Subject  
8 Design by Plaintiff for its customers.

9           14. Plaintiff is informed and believes and thereon alleges that one or more of  
10 the Defendants manufactures garments and/or is a garment vendor. Plaintiff is  
11 further informed and believes and thereon alleges that said Defendant(s) has an  
12 ongoing business relationship with Defendant retailers, and each of them, and  
13 supplied garments to said retailer, which garments infringed the Subject Design in  
14 that said garments were composed of fabric which featured unauthorized print  
15 design(s) that were identical or substantially similar to the Subject Design, or were  
16 an illegal derivation or modification thereof.

17           15. Plaintiff is informed and believes and thereon alleges that Defendants, and  
18 each of them, infringed Plaintiff's copyright by creating, making, and/or developing  
19 directly infringing and/or derivative works from the Subject Design and by  
20 producing, distributing and/or selling garments which infringe the Subject Design  
21 through a nationwide network of retail stores, catalogues, and through on-line  
22 websites.

23           16. Due to Defendants' acts of infringement, Plaintiff has suffered substantial  
24 damages to its business in an amount to be established at trial.

25           17. Due to Defendants' acts of infringement, Plaintiff has suffered general and  
26 special damages in an amount to be established at trial.

1 18. Due to Defendants' acts of copyright infringement as alleged herein,  
 2 Defendants, and each of them, have obtained direct and indirect profits they would  
 3 not otherwise have realized but for their infringement of the Subject Design. As  
 4 such, Plaintiff is entitled to disgorgement of Defendants' profits directly and  
 5 indirectly attributable to Defendants' infringement of the Subject Design in an  
 6 amount to be established at trial.

7 19. Plaintiff is informed and believes and thereon alleges that Defendants, and  
 8 each of them, have committed acts of copyright infringement, as alleged above,  
 9 which were willful, intentional and malicious, which further subjects Defendants,  
 10 and each of them, to liability for statutory damages under Section 504(c)(2) of the  
 11 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per  
 12 infringement. Within the time permitted by law, Plaintiff will make its election  
 13 between actual damages and statutory damages.

## 14 **SECOND CLAIM FOR RELIEF**

15 (For Vicarious and/or Contributory Copyright Infringement - Against All  
 16 Defendants)

17 20. Plaintiff repeats, realleges, and incorporates herein by reference as though  
 18 fully set forth, the allegations contained in the preceding paragraphs of this  
 19 Complaint.

20 21. Plaintiff is informed and believes and thereon alleges that Defendants  
 21 knowingly induced, participated in, aided and abetted in and profited from the illegal  
 22 reproduction and subsequent sales of garments featuring the Subject Design as  
 23 alleged herein.

24 22. Plaintiff is informed and believes and thereon alleges that Defendants, and  
 25 each of them, are vicariously liable for the infringement alleged herein because they  
 26 had the right and ability to supervise the infringing conduct and because they had a  
 27 direct financial interest in the infringing conduct.

23. By reason of the Defendants', and each of their, acts of contributory and vicarious infringement as alleged above, Plaintiff has suffered and will continue to suffer substantial damages to its business in an amount to be established at trial, as well as additional general and special damages in an amount to be established at trial.

24. Due to Defendants', and each of their, acts of copyright infringement as alleged herein, Defendants, and each of them, have obtained direct and indirect profits they would not otherwise have realized but for their infringement of the Subject Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits directly and indirectly attributable to Defendants' infringement of the Subject Design, in an amount to be established at trial.

25. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, have committed acts of copyright infringement, as alleged above, which were willful, intentional and malicious, which further subjects Defendants, and each of them, to liability for statutory damages under Section 504(c)(2) of the Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per infringement. Within the time permitted by law, Plaintiff will make its election between actual damages and statutory damages.

### **PRAYER FOR RELIEF**

Wherefore, Plaintiff prays for judgment as follows:

#### **Against All Defendants**

#### **26. With Respect to Each Claim for Relief**

- a. That Defendants, each of them, and their agents and employees be enjoined from infringing Plaintiff's copyrights in any manner, specifically those for the Subject Designs;
- b. That Defendants, and each of them, account to Plaintiff for their profits and any damages sustained by Plaintiff arising from the foregoing acts



1 of infringement, the exact sum to be proven at the time of trial, or, if  
2 elected before final judgment, statutory damages as available under the  
3 Copyright Act, 17 U.S.C. § 101 et seq.;

4 c. That Plaintiff be awarded its attorneys' fees as available under the  
5 Copyright Act U.S.C. § 101 et seq.;

6 d. That Plaintiff be awarded pre-judgment interest as allowed by law;

7 e. That Plaintiff be awarded the costs of this action; and

8 f. That Plaintiff be awarded such further legal and equitable relief as the  
9 Court deems proper.

10 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.  
11 38 and the 7<sup>th</sup> Amendment to the United States Constitution.

12 Respectfully submitted,

13  
14 Dated: February 10, 2015

15 By: /s/ Scott Alan Burroughs  
16 Scott Alan Burroughs, Esq.  
17 Trevor W. Barrett, Esq.  
18 DONIGER / BURROUGHS  
19 Attorneys for Plaintiff  
20 ROYAL PRINTEX, INC.  
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